

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,  
Plaintiff,

v.

PERFECTO ACEVEDO SANCHEZ,  
Defendant.

No. CR-06-2140-FVS

ORDER DIRECTING PLAINTIFF TO  
FILE RESPONSE TO DEFENDANT'S  
SECTION 2255 MOTION

**BEFORE THE COURT** is Defendant's *pro se* motion under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody. (Ct. Rec. 252).

Under 28 U.S.C. § 2255, a federal prisoner may move the court to vacate, set aside, or correct his or her sentence on the grounds that (1) the sentence was imposed in violation of the Constitution or laws of the United States, (2) the court was without jurisdiction to impose such sentence; or (3) the sentence was in excess of the maximum authorized by law. "Unless the motion and the files and records of the case conclusively show that the prisoner is entitled to no relief, the court shall cause notice thereof to be served upon the United States attorney . . . ." 28 U.S.C. § 2255. However, the Court may *sua sponte* dismiss the motion if "it plainly appears from the face of the motion . . . that the movant is not entitled to relief in the district court." Rule 4(b), Rules Governing Section 2255 Proceedings For the United States District Courts.

1 The Court has now had an opportunity to review Defendant's  
2 motion. Having done so, the Court cannot say that Defendant is  
3 entitled to no relief under 28 U.S.C. § 2255. For this reason, the  
4 government is ordered to respond to Defendant's motion. See Rule  
5 4(b), Rules Governing Section 2255 Proceedings For the United States  
6 District Courts. Accordingly,

7 **IT IS HEREBY ORDERED:**

8 1. The government shall file a **response** to Defendant's Section  
9 2255 Motion (Ct. Rec. 252) on or before **March 6, 2009**, and serve the  
10 same on **Defendant**.

11 2. Defendant shall file a reply, if he so chooses, by no later  
12 than **April 6, 2009**.

13 3. Defendant's Section 2255 Motion shall be noted for hearing,  
14 without oral argument, on **April 20, 2009 at 6:30 p.m.**

15 4. Defendant's request for reconsideration of the denial of  
16 motion for out of time appeal (**Ct. Rec. 251**) is **DENIED**.

17 **IT IS SO ORDERED.** The District Court Executive shall enter this  
18 order and furnish copies to the parties.

19 **DATED** this 4th day of February, 2009.

20 S/Fred Van Sickle

21 Fred Van Sickle  
22 Senior United States District Judge  
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